

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES  
1025 CAPITAL CENTER DRIVE, SUITE 300  
FRANKFORT, KENTUCKY 40601

**ORDER GOVERNING NOTICE FILINGS MADE BY  
COVERED INVESTMENT ADVISERS THROUGH  
THE INVESTMENT ADVISER REGISTRATION DEPOSITORY**

WHEREAS, the Commissioner of the Department of Financial Institutions (the "Commissioner") is charged with the administration of Chapter 292 of the Kentucky Revised Statutes, the Kentucky Securities Act (the "Act") and of 808 KAR Chapter 10 of the Kentucky Administrative Regulations (the "Regulations") promulgated under the Act;

WHEREAS, section 292.330(2) of the Act states, in part, that:

It is unlawful for any covered adviser to transact business in this state unless: (a) The person has made a notice filing with the commissioner consisting of a copy of those documents that have been filed by the covered adviser with the United States Securities and Exchange Commission and that the commissioner by rule or order requires to be filed together with consent to service of process and the fee prescribed in subsection (11)(b) of this section;

WHEREAS, section 292.330(2)(b)-(d) of the Act provides that covered advisers do not have to make the notice filing required in section 292.330(2)(a) of the Act if:

- (b) The person is registered as a broker-dealer under this chapter;
- (c) The person's only clients are investment companies as defined in the Investment Company Act of 1940, or insurance companies; or
- (d) The person is excluded from the definition of investment adviser under KRS 292.310(10)(a) to (h) and (j);

WHEREAS, section 292.330(2) of the Act further states that:

It is unlawful for an investment adviser representative to be employed by a covered adviser who is required to make a notice filing with the commissioner unless the investment adviser representative is registered under this chapter;

WHEREAS, section 292.330(3) of the Act states that:

A...investment adviser representative may apply for registration by filing with the commissioner or the commissioner's designee an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee...;

WHEREAS, on September 12, 2000, the Securities and Exchange Commission (the "SEC") issued Release No. IA-1897 (Electronic Filing by Investment Advisers; Amendments to Form ADV; File No. S7-10-00) effective October 10, 2000, which among other things, mandated that SEC-registered investment advisers file Part 1 of Form ADV electronically with the SEC through the Investment Adviser Registration Depository (the "IARD") commencing January 1, 2001;

WHEREAS, Release No. IA-1897 contemplated that the IARD would be capable of accepting filing fees for investment adviser agents at a future date;

WHEREAS, the IARD is an Internet-based filing depository operated by the NASD Regulation, Inc. (the "NASDR") under contracts with the SEC and the North American Securities Administrators Association (the "NASAA") which depository is designed to accept filings made electronically by SEC and state registered investment advisers as well as their investment adviser agents; collect associated regulatory filing fees on behalf of affected jurisdictions; and provide the investing public with Internet-based access to background information on state and federally regulated investment advisory personnel;

WHEREAS, section 292.330(11)(b) of the Act states that, "[t]he fee for notice filings shall be one hundred dollars (\$100) for a covered adviser";

WHEREAS, section 292.330(11)(a) of the Act states that, "[t]he fee for initial or renewal registration shall be....fifty dollars (\$50) for an investment adviser representative...";

WHEREAS, section 292.330(9) of the Act states, in part, that, "[e]very registration of a[n]...investment adviser representative and every notice filing shall be effective until December 31 of the year of...notice unless the commissioner by rule extends or lessens...the notice period may be renewed as hereinafter provided";

WHEREAS, section 292.330(10) of the Act states, in part, that, "...[a] notice filing by a covered adviser may be renewed by filing with the commissioner or the commissioner's designee a notice filing consisting of any documents filed with the United States Securities and Exchange Commission as the commissioner may require by rule or order";

WHEREAS, section 292.330(10) of the Act states, in part, that "[r]egistration of a[n]...investment adviser representative may be renewed by filing with the commissioner or the commissioner's designee prior to the expiration thereof an application containing



the information the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration...[and] payment of the prescribed fee”;

WHEREAS, section 292.330(12)(c) of the Act states, in part, that, “[i]f the information contained in any document filed with the commissioner or the commissioner’s designee is or becomes inaccurate or incomplete in any material respect, the...covered adviser shall file only copies of those document required to be filed with the Securities and Exchange Commission”;

WHEREAS, section 10:330(1) of the Regulations, states in part that, “A covered adviser, except a person that is exempt from the notice filing requirements pursuant to KRS 292.330(2)(b), (c), or (d), doing business in this state shall file with the department for notice purposes: (a) A copy of a Form ADV....(b) A consent to service of process; and (c) The...filing fee required by KRS 292.330(11)(b)”;

WHEREAS, section 292.330(12)(g) of the Act states in part that:

The commissioner may enter into an arrangement, agreement, or other working relationship with federal, other state, and self-regulatory authorities whereby documents may be filed and maintained in a central depository system with the National Association of Securities Dealers or other agencies or authorities. It is the intent of this paragraph that the commissioner be provided power to reduce duplication of filings, reduce administrative costs, and establish uniform procedures, forms and administration with the states and federal authorities. The commissioner may permit initial and renewal registration filings required under this chapter to be filed with the Securities and Exchange Commission, the National Association of Securities Dealers, or other similar authorities;

WHEREAS, this Order is in the public interest and consistent with the purposes fairly intended by the policy and provisions of the Act;

IT IS THEREFORE ORDERED that, for purposes of Sections 292.330 of the Act and 10:330 of the Regulations, the web-based Investment Adviser Registration Depository (“IARD”) operated by the NASD Regulation, Inc. is designated to receive notice filings and registration filings as well as to collect initial and renewal filing fees on the Commissioner’s behalf in accordance with this Order and with respect to investment advisers and investment adviser representatives;

IT IS FURTHER ORDERED that effective July 1, 2003, and for purposes of Sections 292.330 of the Act and 10:330 of the Regulations, covered investment advisers and investment adviser representatives employed by covered advisers registered or

applying for registration with the SEC shall make their Kentucky notice filings and registration filings, including amendments thereto and related payments, through the IARD and shall provide a copy of Part 2 of Form ADV to the Commissioner upon the Commissioner's request. Nothing in this Order shall relieve such covered investment adviser from the prohibition in Section 292.330(2) of the Act, against engaging an unregistered investment adviser agent in this state; and

IT IS FURTHER ORDERED that this Order shall remain in effect until modified, superseded or vacated by the Commissioner or other lawful authority.



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Ella D. Robinson  
Commissioner  
Department of Financial Institutions

This Order entered and signed this 28<sup>th</sup> day of March, 2003.